IGRL tg Osborne Wight 1793

156

THE

SPEECH

OF

Mr. HARDINGE,

AS COUNSEL FOR THE DEFENDANTS,

IN THE CAUSE

OF

Prieſtley againſt the Hundred of Hemlingford.

TRIED AT

WARWICK ASSIZES,

BEFORE LORD CHIEF BARON EYRE,

APRIL 5, 1792.

BIRMINGHAM,

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DR. PRIESTLEY having in the Second Part of his Appeal to the Public, on the Riots in Birmingham, accuſed Mr. Hardinge of inflaming *the* Court and the Jury *againſt him, by* virulence of declamation—abuſe, *and* violence, *he has* printed *what he* ſaid *with all the accuracy in his power, that his friends may ſit in judgment upon the* corpus delicti *itſelf.*

Dr. P. having aſſerted, that Mr. Hardinge quoted paſſages from his works in the other *actions (to which he, Dr. P. was no party) he has no anſwer to that aſſertion, but in the four little words uſed by Lord Grenville, when he was accuſed of a new treaty between the Courts of London and Vienna*—It is not true.

Dr. P. has told the reader, that whatever might be the ſeditious tendency of theſe paſſages, they were quoted for the purpoſe of abuſe alone, *and could not affect the eſtimate of the damages. He has omitted what the* Court *ſaid upon that ſubject*—approving the topic, *as not only*

only relevant, *but* indiſpenſible, *to the juſtice of the cauſe*; —*and ſtates* only *what the Court* [redacted] *obſerved as to the want of* legal *proof that any ſuch paſſages exiſted.*— *The reader ſhould alſo be informed, that* Lord Chief Baron Eyre *told the Jury, they ought not, in his opinion, to give* a ſhilling *for the manuſcripts, if they had reaſon to believe the* exiſtence, *and* fair quotation *of the paſſages which the Counſel had read.*—*Their* exiſtence, *and* the fair quotation *of them, are not called in queſtion by the writer himſelf*;—*and the* manner *in which Mr. Hardinge eſtabliſhed the relevancy of them, will here be ſeen.*

DR. PRIESTLEY

VERSUS

ARCHER and WHATELY.

MR. HARDINGE,

COUNSEL FOR THE DEFENDANTS,

MAY it pleaſe your Lordſhip, and you, Gentlemen of the Jury,

If I could meet this Plaintiff upon his own ground, I would addreſs you in words of his own:— "*Can an *Act of Parliament* authorize a manifeſt injuſtice? And when you are taxed "with oppreſſing your neighbours, in exacting that, "for which you have given them no equivalent, will "it be ſufficient at the great day of judgment, to "ſay that you had an *Act of Parliament* for doing it?

* Familiar Letters addreſſed to the Inhabitants of *Birmingham*, page 66, paragraph 3, line 3 and 13, *publiſhed in* 1790.

"Will

" Will an *Act of Parliament* excuſe you in the " ſight of God, for exacting more, of any man, than " in the eye of *reaſon*, and *equity*, he *ought* to pay ?— " If an *Act of Parliament* will not juſtify taking any " men's *lives*, neither will it juſtify the taking their " *money*."—I would then aſk, if this Plaintiff could recover one ſhilling upon thoſe principles in his preſent action.

If I could meet him upon his own ground, in another view of it, I would put the iſſue upon that ſtatement, which, in his " *Appeal to all the people of* " *England*," " accuſes *the King*,—and the *King's* " *friends*,—*the Government*,—and the *whole body of the* " *Church*,—the *whole town of Birmingham*,—and its " *neighbourhood*," of inſtigating theſe rioters againſt " *him*;—repreſents his adverſaries in the Church " to have *burnt* his books, inſtead of *anſwering* " them*."—I would then agree with him, that *we* ſhould abide the reſult of your judgment upon that complaint, as perſonating thoſe adverſaries.

He knows, that I *cannot* follow him into theſe topics, upon the record, which he has brought into

* Appeal to the Public on the Riots in Birmingham, publiſhed in 1792, page 80.

Court.

Court. He knows that he *muſt* be an accuſer without a ſhadow of proof—and, though "candour (as "we are informed) is that feature of his character "which preſides over all the reſt," he ſubmits to the *painful* reflection, that he is not only an accuſer without a ſhadow of proof, but that he eſcapes from the levelling principle, which he has made for the reſt of the world.

But, though I *cannot* follow him into thoſe topics, I *can*, with ſtrict, and *legal*, accuracy of conduct, examine his *political opinions*, and mark the danger of them; becauſe *he has* put the value of *thoſe opinions*, to the invidious, and painful teſt of a diſcuſſion here, by appreciating his *manuſcript works*, and the *Hiſtory*, which he has written, *of his own Life*.—His "*Memoirs*" of that life, I think, form one branch of it, and his *Diary*, another; which laſt preſerves every incident of his fortune, be it ever ſo minute, from the period of 1752.

Theſe *items* of his *bill*, calling upon *you* for an eſtimate of their value, I demand your attention (as men of honour, and bound by the ſanction of your oath) to the moſt prominent features of the *writer*,

and of the *man*. His *manuſcripts unſeen*, are to abide the teſt of compariſon between *them*, and his *works in print*; and if I wanted his compact for ſo juſt a line of argument, I have it, from the Counſel who opened his caſe; for *he* told you, the eſtimate which could alone be formed of the value to be ſet upon the *manuſcripts*, was that of analogy to his *publications*. The bookſellers, adduced by him, have reaſoned in the ſame way. But you will not forget, that in putting an eſtimate upon this analogy, you are *truſtees*, if I may uſe that phraſe, for the good ſenſe of the Engliſh character, as purchaſing thoſe articles at an auction, or in a ſhop.

In that view, it is the *legal right* of theſe Defendants, to read paſſages from recent *publications* by the ſame hand, for the purpoſe of marking the pen, which can ſo write, and the life, diſtinguiſhed by ſuch opinions. This I conſider not only as a *right*, in one view of it, but as a *duty*, in another, on the part of thoſe whom I have the honour to repreſent.

As to the *manner* of aſſerting this *right*, and of acting upon it, I hope for ſome degree of perſonal credit beforehand, and I devote my own perſonal character to the experiment. Nothing is more deſpicable than egotiſm;

egotiſm; but I avow it here, to a certain extent, and without fear of ridicule, becauſe, to be accuſed, *as I have been*, of an intention to go out of the cauſe, for a purpoſe, deeply miſchievous to public order, is of all poſſible imputations, that, which I would the moſt anxiouſly endeavour to avert from the character that belongs to me, ſuch as it is, and from the ſituations of truſt, which I have the honour to fill. As a *Member of the Legiſlature*, I hope to be found upon my guard againſt a ſingle word, if I can avoid it, that may ſeem injurious to the peace, or welfare, of the public. As a *Judge* (though preſiding at a very inferior tribunal to this) before whom the characters, the liberties, the fortunes, the lives, of men are occaſionally at ſtake, and whoſe province it is to correct anarchy, I have acquired, at leaſt, the *habit* of endeavouring to counteract, inſtead of encouraging, tumult, and violence.

I ſhall put this Plaintiff upon as fair a teſt, as a man can deſire for himſelf:—He ſhall atteſt his own character, and I will abſtain from comments upon ſo plain a text——

" *If I do him right,*

" *Then hath he wronged himſelf;*

" *If not, my taxing, like a wild gooſe flies,*

" *Unclaimed of any man.*"

 I will

I will "*do him right*" with all the good humour poſſible, and in a manner which I hope the natural feelings of my own mind will dictate, as well as the ſenſe of a dilemma between *profeſſional*, and *political* duties, in my ſituation, which deſerves all the compaſſion of a generous audience.

Indeed, I *cannot* feel *rancour*;—becauſe I hope that when this gentleman is a little better known, I ſhall in great meaſure diſarm that *ſpleen* againſt him, which has been too prevalent, by marking, with juſt *ridicule*, the moſt prominent features of "*his life*," and "*his opinions.*"

If in ſuch times as theſe, additional, and private feelings of delicacy could prompt even more caution than I have promiſed, I ſhould feel it upon account of the two young men, who have been examined,—his two ſons. I believe you will agree with me in the *eſtimate* (as that is the faſhionable term) which I take the liberty of putting upon *their* character, and conduct in this Court—Never did I ſee two witneſſes, of their age, deport themſelves with more ſimplicity, and perfect honour. A memorable anſwer (upon which I ſhall ſay a word hereafter) given by one of them, does him, in my opinion, more honour, than if it had been ſound, and correct, in point of law. I mean, where he deſcribed the

the information given him by his father, as a ſure warrant for *the Jury*, as well as for *him*, to infer, that what he ſo heard, was true.

Of Dr. Prieſtley's *philoſophical experiments*, their ingenuity, and their utility, not even *his own* praiſe, enthuſiaſtic as it is, *can* be exaggerated.—Of his *political experiments*, you are better judges, than I am; becauſe *your* neighbourhood, has been diſtinguiſhed, as the ſcene and theatre of this animated *Profeſſor* in the *new* art of government without religion, morality, or law.

His Counſel, with ſome dexterity, has conſidered him as a *philoſopher* alone. It is in *my* view to his *political* opinions, that I call upon you for an eſtimate upon "*his life*;" becauſe without a judgment of *theſe* opinions, publiſhed by himſelf, you can form no juſt valuation upon the amount of his claim, to recompence for the loſs of his *manuſcript compoſitions*.

His works, like thoſe of *Mr. Thomas Paine* (I do not mean the facetious, and the *harmleſs* Thomas Payne, Bookſeller, whom you have ſeen to day, but another great man of his name) have been circulated with uncommon aſſiduity—"*they* too "have been *read* (as we heard it ſaid of the *philoſo-* "*phical* writings) *with avidity*,"—and at *Birming-*

ham in particular; where he tells you, himſelf, that he has been perſecuted as a *Gallic Revolutioniſt*. They are numerous, they are printed, they are publiſhed, and I will remind you of ſome few, but ſtriking paſſages, which are to be found in them. He has addreſſed them to populous, and manufacturing inhabitants, who are the moſt liable, from their multitudes, and the nature of their occupations, to be dangerouſly miſled, in the hour of leiſure, and who ſhould more than all others, be kept in habits of ſubordination.

I conſent, and I wiſh, to be execrated as a defamer, if I utter a ſingle word, as referable to theſe writings, which I have not *ſeen* in its *printed* form; and I know the liberality of Dr. Prieſtley's Counſel too well, to imagine that it *can* be ſaid by *them*,—" prove they were printed by our client." It is *their* client's peculiar boaſt, and pride, that having been printed in *his* name, and by *his* order, they are circulated, with a moſt popular effect.

He has told us, " that if a man commits a mur-
" der, he ſhould be puniſhed as a murderer, and
" that no regard is due to his plea of conſcience, but
" that any opinions which led him to the *action*"
(that is, *to the murder*) " ſhould never be meddled
" with

" with." So that, according to *him*, opinions leading to murder, " *ſhould never be meddled with**."—Thus far as a *Politician*.

He has *enlightened* us with another aphoriſm, equally ſingular;—" that RELIGION (which he defines to be " the belief of a GOD, a PROVIDENCE, " and a FUTURE STATE) is not abſolutely NECES- " SARY for the purpoſe of *ſociety*†." In other words, that public order, and ſocial morality, can ſubſiſt, and proceed, without *any* religion at all.—Thus far as a *Divine*.

As *a good citizen*,—he has told us, that " if SUFFI- " CIENT PROVISION is not made for the happineſs " of the people, no other *property*, or *title*, by " which it may be dignified, ought to *ſhelter* it from " the ATTACK of the noble, and the DARING Pa- " triot‡."

He has reminded us, " that Government will " *never* be awed by the voice of the people, ſo

* Eſſay upon the Firſt Principles of Government, Sect. III. of Civil Liberty, page 118, line 8, publiſhed in 1791.

† Familiar Letters addreſſed to the Inhabitants of Birmingham, page 53, par. 2, line 1.

‡ Eſſay upon the Firſt Principles of Government, Sect. II. of Political Liberty, page 35, par. 2, line 9.

" long

" long as it is a MERE VOICE, without OVERT " ACTS*."

According to *his* political faith, " the greater " part of human actions are of ſuch a nature, that " more inconvenience would follow from their being " FIXED BY LAWS, than from their being left to " EVERY MAN'S ARBITRARY WILL†."

He tells us, " that only WISE LAWS are JUST, and, " properly ſpeaking, LAWFUL."

So that inſtead of *repealing* an *impolitic* law, this gentleman ſubſtitutes the receipt of *diſobedience* to it.

He has given us a definition of *civil liberty*. He owns that *his* definition is *new*, and I beg you will pay attention to it. " *Civil liberty* extends no fur- " ther than to a man's own conduct, and ſignifies " the *right* he has to be *exempt* from the *controul* of " the *ſociety* or its *agents*."

Of *political freedom*, he has a definition equally *new*; for he ſays of it this—" In countries where a " man by his birth or fortune, is excluded from the

* Eſſay upon the Firſt Principles of Government, Sect. II. of political liberty, page 46, 7, par. 3, line 24.

† Ibid. Sect. III. of Civil Liberty, p. 52, par. 2, line 9.

" ſupreme

" ſupreme offices, or from a power of voting for " proper perſons to fill them, that man, whatever " may be the form of the government, or whatever " *civil liberty* or power over his own actions he may " have, has no power over thoſe of another, and " therefore has no *political liberty* at all. Nay, his " own conduct, as far as the ſociety does interfere, " is in all caſes directed by others*."

He admits " that NO SOCIETY UPON EARTH was " ever ſo formed;"—but he adds, " that ALL GO- " VERNMENTS WHATEVER have been in ſome mea- " ſure compulſory *tyrannical* and *oppreſſive* in their " origin." The method *he* has deſcribed, muſt be " allowed (he ſays) to be the only *free* and *equitable* " method of forming a ſociety;—and ſince *every* " *man* retains his *natural right* of relieving himſelf " from *all oppreſſion*, that is, from every thing that " has been impoſed upon him *without his conſent*, " this muſt be the only *true* and proper foundation " of *all* governments in the world, and that to " which the people who compoſe them have an " *unalienable right to bring them back*†."

* Eſſay upon the Firſt Principles of Government, Sect. I. page 9, par. 2, line 7.

† Ibid. Sect. II. page 11, line 7.

Theſe

Theſe are his general principles of government, in which he makes no ſcruple, to recommend a diſſolution of it.—Thus far, as a *good Citizen.*

As a *Diſſenter* from the Church, I beg you will hear him in a SERMON which he delivered in *his* Church. Theſe articles in his bill, the *Sermons* I mean, are either to be conſidered according to his own Counſel's modeſt valuation of them, "as at the rate of ſixpence a piece," or as deviating from that rate, and ſuperior to it.—If they are ſuperior to it (as they certainly are, in miſchievous value) let me give you this paſſage out of a SERMON, quoted by him in his "*Appeal to the people of Birmingham.*" His words are theſe—"*We* are now in the ſitua-
"tion of the *primitive chriſtians*; as the friends of
"reformation have nothing to expect from power
"or general favour, but muſt look for every ſpe-
"cies of *abuſe*, and *perſecution* that the ſpirit of the
"times will admit of.—If even BURNING ALIVE
"was a ſight that the country would now bear,
"there exiſts a ſpirit, that would inflict that horrid
"puniſhment, and with as much cool indifference,
"and *ſavage exultation*, as in any preceding ages of

* Familiar Letters, &c. page 21, par. 2, line 18.

the

" the world*."—This from a *Divine*, who preaches the *goſpel of peace*, and *good will towards men!*—This too in a *Sermon!*

He tells you the *Diſſenters* are *more* loyal than we, who are of the *Eſtabliſhed Church*;—but he laments, he ſays, " that ANOTHER KING " is ARISEN WHO KNOWETH NOT JOSEPH, or (as he " explains it) the obligations that *his* family are " under to the *Diſſenters*†." * * * " Should THE " KING" (as he wittily obſerves elſewhere) " like " *Ahaſuerus* in the book of *Eſther* (vi. 1.) *not be* " *able to ſleep*, and call upon one of the Lords of " his bed-chamber to read to him out of the book " of the records of the Chronicles of the Kings of " England, and ſhould there find, who had been " the moſt zealous for the Revolution under King " William—for the acceſſion of the Houſe of Han- " over—for the ſuppreſſion of the rebellions in " 1715, and 1745—and who took his part in a late " change of adminiſtration; and then enquire, *what* " *honour*, and *dignity* (ch. vi. 6.) had been done to " *his* friends, and the friends of *his* family; and

* Extract from a SERMON preached for the benefit of Hackney College, and quoted by *Dr. Prieſtley* in his Appeal to the Public, &c. page 23, parag. 3, line 1.

† Familiar Letters, &c. page 14.

" learn,

" learn, that inſtead of any thing being done to " reward, much had been done to *mortify*, and *pu-* " *niſh* them; that to this very day they had been " perſecuted by lies, and calumnies, *as men whoſe* " *laws were diverſe from thoſe of all other people, and* " *who do not keep the King's laws*, and therefore ſay, " *that it is not* for the King's profit to ſuffer them " (ch. iii. 8.): poor deſpiſed *Mordecai* may be ad- " vanced, and ſome *other* uſe be made of the *gal-* " *lows* that was erected for *him**."—Thus far as a *Diſſenter*.

As a *Gallic Revolutioniſt*, he ſays, " that if the " condition of *other nations* be as much *better'd* (I " wonder he did not ſay, in *Sterne*'s phraſe, " *better* " *ordered*") as that of *France* probably will be, by " her improved ſyſtem of government, that *great* " *criſis*" (which he puts into italics) " dreadful as " it may ſeem in proſpect, would be a *conſumma-* " *tion, devoutly to be wiſhed*†."

He aſſures us, " that *France* could not keep up " her peace eſtabliſhment any longer—the ſame " will ſoon be the ſituation of *other countries*, and " that *our* approach to this GREAT CRISIS in our " affairs is not equable, but accelerated ‡."

* Familiar Letters, &c. page 36, par. 2, line 1.

† Letters to Mr. Burke, page 154, par. 2, line 1.

‡ Ibid. page 153, par. 2, line 1.

He

He ſays, " The *Americans* did *more* than *our* an-
" ceſtors at the Revolution; and by doing it ſet
" an example, through *France*, *to all the world*—
" they formed a *completely new government*, on the
" principles of *equal liberty*, and the RIGHTS OF
" MAN;—*without nobles*, *without biſhops*, and WITH-
" OUT A KING*."

Having arraigned the *Eſtabliſhed Church*, who (as he repreſents them) have ſacrificed the honour, and the intereſt of their country, to *rage againſt the Diſſenters*, he exclaims thus:—" What a contraſt is
" now exhibited in France! and how muſt every
" Engliſhman bluſh to look upon it †.

" He rejoices (he ſays) to ſee the warmth, with
" which the cauſe of orthodoxy—that is, of long
" eſtabliſhed opinions, however erroneous, and that
" of the Hierarchy, is now taken up, becauſe if
" their ſyſtem is not ſound, they are accelerating
" their own deſtruction; *they are aſſiſting him, in the*
" *proper diſpoſal of thoſe trains of gunpowder, which*

* Letters to Mr. Burke, *publiſhed in* 1791.

† Familiar Letters, &c. page 210.

" *have*

" *have been for ſome time accumulating, and will blow* " *it up at length as ſuddenly, and as completely as the* " *overthrow of the late arbitrary government in* " *France**."

He menaces a univerſal Revolution over the whole earth, and recommends a Reform *here*, that *our* ſhock may be leſs. " How different (we are " told) are the ſpectacles that are now exhibited in " *France* and in *England! Here* bigotry has been " foſtered and has acquired new ſtrength—*there* it " is almoſt extinct†."—He ſays, " the *body* of *the* " *Clergy*, and thoſe who call themſelves *Friends of* " *the King*, have been *his* enemies, becauſe he wrote " in defence of the late *glorious Revolution*," (as he calls it) " in France ‡."

Thus far as a *Politician*—as a *Divine*—~~as a Diſ-~~—as a *good Citizen*—and a *Gallic Revolutioniſt*.

Here I will make this appeal upon the cauſe of the riots. Let any one human creature who hears me, ſay, if he can (putting his hand upon his breaſt,

* Preface to the Letters to Mr. Burn, page 207, 8.

† Preface to the Appeal, &c. page xxiv. note *.

‡ Appendix to the Appeal, page 156.

and

+ as a Diſenter—

and calling honour as a teſt of the aſſertion) that ſuch language as this, written, and publiſhed, in the neighbourhood of Birmingham, can have had no ſhare of that irritation, which goaded the mob to thoſe infamous outrages. Let any man ſay, upon his honour, that at Birmingham (and I will carry it no further) a determination to perſevere in that Anniverſary Meeting, and the circumſtances that preceded it, on the part of thoſe who were cordial to it, were not, in a conſiderable degree at leaſt, the very cauſe of this riot.

I am haſtening to a new department of this voluminous writer's publiſhed works, and ſhall meet him as a *Witneſs* againſt the Defendants *in his own cauſe*.—He informs you, "that nothing on the "part of the town, or its neighbourhood, favour-"able to juſtice, has yet appeared*—that the "whole town and neighbourhood fall under the "ſuſpicion of ſcreening, and protecting the rioters†— "that if the friends of the Church, and of the "King, in the higher ranks, had been earneſt to "ſuppreſs the riot, it might, no doubt, have been "effected, before any miſchief had been done‡.

* Appeal, &c. page 71, par. 2, line 1.

† Ibid. page 72, 3.

‡ Ibid. page 71, line 1.

According to *him*, " there was more than re-
" miſſneſs on the part of many perſons of better
" condition. He affirms, that nothing, which they ever
" did, ſhowed a real diſapprobation of the conduct of
" the mob, previous to the demolition of *his*
" houſe, but only a wiſh that they ſhould proceed
" *no further than that**."

So that he abſolutely has the hardineſs, in the face of the public, to accuſe men of high rank, and of unblemiſhed honour, who lived in that neighbourhood, of goading the perſecutors, up to the moment in which the perſecution had been conſummated in *his* ruin,—and *then* telling 'em, they might ſtop.

In the next paſſage, he calls them " *abettors of*
" *thoſe horrid ſcenes*†"--imputing a maſked protection, and a deliberate connivance of the Magiſtrates in ſupport of the riot, as perſonally aimed at *him*.—He hooks in the Church—" *They* burnt his books (as I told you before) inſtead of *anſwering* them."—And then *he* is to exculpate, or convict, as *he* thinks beſt;—this accuſer, witneſs and judge in his own cauſe :—and mark who are called before his tribunal! 1. " *The King*," who " has in *great meaſure*"

* Appeal, &c. page 71, line 19.

† Ibid. par. 2, line 1.

(not

(not entirely) "exculpated himſelf*."—2. "The "*Biſhop*, and *Clergy of the Dioceſe*—who are *not* ex- "culpated," becauſe they "have not *offered him* "the uſe of their Churches†," and becauſe "*he* ſhall "conſtrue *their ſilence*, upon what has happened to "him, into *approbation*‡."—3. The *Church*, and 4. the *King's friends*—who "have deſtroyed his "inſtruments of ſcience§, becauſe his application to "them, gave ſome degree of weight to his labours "in *another field*."

Gentlemen, the whole driſt of this laſt work, is a general, but a marked intimation, that a mob was hired againſt him, and was hired by the Government.

But I come now to the joy that *he felt* at this perſecution, the joy of a Patriot, and of a Martyr!—Of all the paſſages, delivered by a human creature, in honour to himſelf, this appears to me the moſt *impious*, and the moſt *ingeniouſly refined*. In effect, it aſcribes to the Almighty theſe riots at Birmingham, for the purpoſe of making *Dr. Prieſtley* more popular, as being more perſecuted, and of proving

* Appeal, &c. page 76, par. 2, line 1.
† Ibid. page 73.
‡ Ibid. page 75, line 9.
§ Appendix to the Appeal, page 156.

to the world, that his "*truths*," as *he* calls them, are accepted in Heaven.

"Though I had read, and reflected much on the "feelings of Chriſtians in a ſtate of *perſecution*, and "never doubted but that in ordinary caſes their joys "far exceeded their ſorrows, I could not *know* that "they did ſo to the degree in which I can truly, and "I hope *without much vanity* (for in this I mean "nothing but the *inſtruction*, and *encouragement* of my "readers) ſay, that I have lately found it. It is "only in trying ſituations, that the full force of *reli-* "*gious principle* is felt, and that its real energy can "ſhew itſelf. And firmly believing, from the doc- "trine of *philoſophical neceſſity*, that the hand of God "is in all events, and that in all caſes men are only "*his* inſtruments—that under *his* ſure guidance *all* "*evil* will terminate in *good*---and that nothing ſo "effectually promotes *any good cauſe* as the *perſecution* "of *its advocates*, all that *I have ſuffered*, and all that "*I can* ſuffer, has, in many ſeaſons of the calmeſt "reflection, appeared as nothing, and leſs than no- "nothing.

"I conſider this *perſecution* (for ſo I ſhall call it, "though my enemies will of courſe conſider it as "the puniſhment of my evil deeds, and are much "leſs than I deſerve) let it be carried to what extent

"it

" it will, as a certain prognoſtic of the prevalence " of *every great truth* for which *I have contended*; " and this *proſpect*, together with the idea of *my* " being an inſtrument in the *hand of* PROVIDENCE " of *promoting the ſpread of important truth by ſuffer-* " *ing, as well as by acting*, has given me at times " ſuch exalted feelings of devotion (mixed, as ſen- " timents of devotion ever will be, with *the pureſt* " *good-will towards all men, my bittereſt* enemies not " excepted) as I had but an imperfect idea of " before*.

" So *fully am I perſuaded* that more *good* than *evil* " will reſult from what has happened to *me*, that *were* " *it in my power I would not be reſtored to my former* " ſituation. Had the late events not happened, I " ſhould of courſe have wiſhed, and prayed for con- " tinuing as I was; for no man, I believe, ever " thought himſelf more happily ſituated than I did— " but PROVIDENCE *having now* DECLARED ITSELF, " *I acquieſce, and even* REJOICE *in the* DECISION†."

Gentlemen, what is he after all this height, and ſublimity of character, when he condeſcends to be a mere Plaintiff in a cauſe? How wretchedly is

* Appeal, &c. page 111, par. 2, line 1.
† Ibid. page 113, par. 2, line 1.

the leveller of kingdoms, and of eſtabliſhments, degraded, when he makes out his bill as a Carpenter, a Maſon, or a Bookſeller !—I ſhall obſerve critically upon the ſeveral parts of this *debtor and creditor*, becauſe he being a man of critical acumen, we muſt grapple more critically with *him* than, with Plaintiffs of coarſer intellect.—Inſtead of being more liberal, however, he has been of all thoſe claimants, the moſt like a Jew—perhaps with his friend Hotſpur (another gentleman who was *not fond of civil eſtabliſhments*) " *he* too, in the *way of bargain*,

" *Will cavil on the ninth part of an hair.*"

This he *has* done in the bill which he has laid before us.

He has in the firſt place, as I ſhall mark preſently, given to the Defendants a laboured eſtimate, from which he runs away the moment he comes into Court. As the cauſe proceeds, there is a ſhift attempted from that later eſtimate, or from any other, which is to abide the teſt of ocular inſpection, into another principle of a more ingenious and ſubtle compoſition, but the moſt glaring, in the abſurdity of it, when brought into the light (as againſt thoſe whom I repreſent) that was ever attempted in a Court of Juſtice.

The

The bird's-eye view of his written eſtimates, would make a pigmy of this giant. Pots—pans—odd volumes of books—and amongſt other *items*, an article never *dreamed of in the philoſophy* of common Plaintiffs in theſe actions—his *own* manuſcript works, unſeen by a human creature but himſelf!—his *own* Sermons!—his *own* Life!—and a *Diary* of its events!

Upon this *Diary* I will here make one remark: It has been well explained, as the term imports, that it is an account of all the circumſtances, day by day, which befel him, from 1752. I will put a caſe, to ſhew the fallacy, and fraud of ſuch articles, ſtuft into an eſtimate like this.—I will aſſume, for argument ſake, that Dr. Prieſtley, who, with his other talents, I have no doubt, poſſeſſes an acute, and retentive memory, could put a ſeries of circumſtances like theſe together, and publiſh a *new Diary*.—If he did, the whole merit of them depending not upon the value of compoſition, but upon the intereſting and curious nature of the events recorded---he would then have an opportunity of being twice paid for the ſame work.

It is demonſtration, that *Memoirs of his Life* muſt be a different thing from a *Diary*, and will

deſcribe not only his *life*, but his *opinions*. *You* will be to determine whether under the title of *his life*, you wiſh to ſee, publiſhed, and circulated, opinions like thoſe which I have read, or would not rather wiſh that oblivion ſhould put her ſeal upon them for ever.

A philoſophic life of Dr. Prieſtley, who would not be deſirous to ſee? But ſhould we exempt, and baniſh philoſophy as a part of the philoſopher's life, three pages will cover the reſt of it. His *works* are to be *his* life, and the beſt record of its value; but the buſtling part of a philoſopher's life cannot be unſuſpected, and I, for one, proteſt againſt all the buſtling part of *this* philoſopher's life, whoſe mere philoſophy I admire—and with whoſe religion I have nothing to do, unleſs where he diſowns the advantages of any religion at all. We know, the publication of Lord Cheſterfield's Letters, and many other *memoirs* of unprincipled men, have infuſed poiſon into the morals of the world; and it had been happy for us all, if ſuch *lives* had never ſprung into light.

Beſides, it is a life to be publiſhed after the death of Dr. Prieſtley. Shall this arbiter of his own fame, and of his own honour---this trampler upon eſtabliſhments---this trampler upon all individuals who

who are not of his own *corps*, ſhall he, judge for ten years hence. Shall he inſure that his own character, will have that ſtability of honour, and fame which it has attracted (as he believes) at the moment in which he forms this eſtimate.

As to his philoſophy, I revere it, as much as any man. Let it be conſecrated. All that I aſk, with a reference to the philoſophical part of his bill—I mean his laboratory and chemical apparatus, &c. is this;—that you will try the eſtimate as to the *exiſtence*, and *value* of theſe articles, upon grounds that will ſtand the teſt of ſober examination by thoſe who ſurround you, and the teſt of imitation by other Jurors who may ſit upon caſes like theſe.

The firſt article worthy of notice, in this gentleman's eſtimate (independent of the particulars which I have ſtated before) is this:—I do not know what amount that article makes—or that it conſtitutes any value at all;—but it forms a general argument againſt the accuracy, and fairneſs of theſe eſtimates. I obſerve, that in ſtating his manuſcript books, there is this article—"*Twelve* "*volumes in folio!*"—and this *enlightening* Reformer, who ſays he muſt and *will enlighten* the whole world, has not enlightened the Jury, or me, or his Counſel, as to the *contents* of theſe volumes;—he gives

no

no contents, they are thrown into the lump. Was he ſhy in ſtating even a *title* of them? And would not even this general deſcription, ſafely meet the public eye?—It is remarkable, that although he deſcribes the other books, at leaſt by ſome key to the ſenſe of them, we have as to theſe volumes a perfect blank in that reſpect;—but they are *volumes*—they are in *folio*,—and they are *twelve*.

Gentlemen, another article is not immaterial in the eſtimate which he has formed. I do not like to go out of my way, to make *ridicule the teſt of truth*; but if it forces itſelf upon me, I muſt act upon it. I forget who ſaid (it was not this Plaintiff I am ſure) *that rebellion was in his way, and he found it.*—*Ridicule* here is "in *my* way," it cannot be reſiſted, and I will not refuſe the advantage-ground of a ſolid argument, though ridicule may be the guide. We are told by the learned gentleman who opened this cauſe, that his client was a very uncommon man, and that beſides other articles in common between him and other Plaintiffs, he had ſome *uniques* (a very elegant word) that were *preſents* to him. Unfortunately it will be difficult for you to put ſuch an eſtimate upon theſe, as will ſatisfy you what the fair value of them is. But an illuſtration has been given to us, which is one of the moſt ingenious that I ever heard.

There

There is, it ſeems, a thing called by a hard name, a ———, and the account of it in the evidence, is very ſingular.—An attempt has been made, in the firſt place, to explain what is the purpoſe of it. I do not underſtand it, for one; but that is no wonder, nor I hope diſgrace to me, becauſe it is not a ſcience which I have cultivated. But in the next place, "Dr. Heberden has written a letter, "in which he commends the ſuperlative merit of "this *unique*." Unfortunately too, by the vulgar laws, and principles of evidence, it ſo happens, that we cannot receive Doctor Heberden's *written* evidence; but it is thought convenient policy to *mention* it, becauſe a vain hope is entertained, that a Jury may adopt into their judgment, a fact *alledged*, though it is *not proved*. A third attempt is made in honour to this *unique*, by *Mr. Nairn*, who deſcribing it, ſaid, he knew in *general* the nature of it, and it was curious. He was aſked by the Judge, whether it was marketable—to which he anſwered, that it is a ſort of thing which generally is *given away*. Alas, poor *unique!*—for I doubt extremely, whether articles of this kind have *any* value, which a Jury can take into conſideration as a meaſure of damages.

As to his philoſophical apparatus, his laboratory, chemical ſubſtances, and ſo on, let me firſt be underſtood as declaring, that I feel, and wiſh to be, as a counſel for

him,

him, in ſupport of theſe articles—I am anxious to give him the moſt liberal value for all ſuch demands, under ſome limitation, however, and you will be a judge if that limitation is candid, or illiberal. All that I aſk of him is, good, and legal evidence of the fact, that ſuch articles *exiſted*, and *ſome* evidence, as to their *general* value.—I ſhall not quibble then with ſums, and rather wiſh that where it is *two* guineas, you may give him *three*.—But can you believe, that ſufficient evidence has been laid before you to aſcertain the fact, that all thoſe articles did exiſt ?

You muſt particularly ſuſpect every one of theſe accounts, upon the evidence of a general fact, which I am going now to relate.—It will not be diſputed, that although in other cauſes of the kind, when our Plaintiffs are vulgar, and common men, theſe *items* are to be opened, and explained, the moment we come to Dr. Prieſtley, we are plunged into the *arcana imperii*. We are to aſſume on *his* part, " that " he had *all* the materials upon which experimental " philoſophers take their ſtand ;" and a leap in the dark is to determine the value of *his* apparatus ; which leap in the dark is to be made by himſelf."

Gentlemen, I call upon you to ſuſpect myſteries like theſe. What is the hiſtory of his furniture ?

An

An account of part was given three weeks ago—Given how?—Why, it came out, that it was read over to the witneſs, to whom *leading* queſtions were put. She was to recollect ſome of the articles, and fix her name upon the paper. A boy was to give an account of others—a boy, juſt, and but juſt, of age, to be heard upon his oath;—his account, firſt given a *week ago!*

Another circumſtance creates ground of alarm at the conduct of this gentleman, in every part of the eſtimate:—How was it framed?—That, which Mr. Philips, the firſt appraiſer, made, was taken from Dr. Prieſtley's account alone, which is a very good receipt for evidence upon the *Rights of Man*, though a little dangerous in *Courts of Juſtice*.—He is a witneſs in his own cauſe—he is a witneſs through a perſon, who (as *he* cannot be called himſelf) is to give the account. But ſince the eſtimate ſo formed, *he* is ſo aſhamed of it, and his agents are ſo aſhamed of it, that Mr. Philips *(perhaps he is dead)* is mute upon the ſubject here—diſowned even by themſelves;—and a difference is then made—(you ſhall call it candour if you will, though it is late in the day) he has lopped off upwards of *three hundred* pounds from his *own* eſtimate.

I muſt beg here, as in the former caſes, to point your attention a little againſt one fallacy of argument,

ment, as to the furniture which has been removed—Where time has been given for the removal of all the articles—and where ſome have actually been removed, that, is, of itſelf, a ſufficient reaſon to ſuſpect, that more has been removed, than is admitted by the eſtimate; but it is in evidence, that a part was removed, *and was actually ſaved.* As to the articles removed, *and ſaved*, a reduction is made of the original eſtimate, but up to that extent alone. There is a fallacy in the limitation; becauſe if there is a removal of articles *which are ſaved*, it is a fair preſumption, that other articles were alſo removed, and were *miſſing*, or *not reſtored*; and if you can believe that other articles were removed, but were not reſtored, thoſe other goods muſt be taken (though it muſt be a leap in the dark) out of the eſtimate which he has framed; becauſe he has told us, the *datum* upon which his principle of diminution is applied, attaches itſelf only to the removal of goods which have been actually ſaved. I don't uſe this argument upon general preſumptions alone, I will prove to you, and it is part of the evidence which you are to hear, that a cart load of Dr. Prieſtley's goods, not in his own eſtimate, as not being ſaved, were actually removed; you muſt therefore conſider whether *all* the articles *removed* and *miſſing*, as well as *reſtored*, are put into the eſtimate of *deductions*—if they are not, *you* muſt put 'em there.

As

As to the *Books* and the *Inſtruments*, for the honour of Juſtice, which is not viſionary or capricious—not like parlour-talk amongſt the ladies—do let us examine how flimſily this part of the eſtimate is framed. As to the *books*, one of the two young men has told you fairly the fact as it is, and it is ridicule, to think *you* can take any notice of theſe books, as exiſting, or as forming any eſtimate at all, upon the account which he gives of them—"A number of books." "*This* book?" "*that* book?"——No—"ſo many of them" (and he marks the number) "I have *counted* them."

How is it poſſible for you, between yourſelves, and your own pillows, to put *any* eſtimate (for I carry it that length) without fear, and trembling, upon premiſes like theſe. We don't in the firſt place *know*, if books deſcribed as having this value put upon them, *exiſted*—we only know, that a certain quantity of books exiſted. What is the value of them? For example, when they tell you there was a *Salluſt* in Dr. Prieſtley's houſe, they tell you nothing. Was the condition of the books—the age—the degree of ſcribble in the margin, taken into the eſtimate!—Some learned men, care leſs for the marketable ſtate of a book than for the marginal notes---the eſtimate there attaches itſelf to the peculiar value of the man, or of his opinions; but in general,

general, this *improvement* of the book, defaces it in the market. If there was an *atom* of information, I ſhould be ſatisfied; but not the leaſt account is given, except from Dr. Prieſtley himſelf, as to the *exiſtence* of the books particularly named by him. As to their quality, you have had ſome very honourable witneſſes, who gave their teſtimony with ſtrict impreſſions of an oath, and with a commendable delicacy to both parties.——What have they told you? Mr. Galton, a man of the higheſt repute, has told you what, no doubt, is true;---he *ſuppoſes* "that Dr. Prieſtley could "ſcarcely have had a leſs number of books than "is named, or ſo little."——Here the Judge has put a diſtinction, which is the ſound good-ſenſe of the ſubject. If Dr. Prieſtley will ſay, that all ſpecific *item* is at an end—that it muſt be a leap in the dark—that he deſpairs of *items*---that he has no *items* in the account---that he makes a lumping eſtimate---and that he *cannot* produce a human creature who will tell you that any individual book exiſted---(ſuch a caſe may in ſome articles exiſt---it is poſſible in theory)---then, as the Judge obſerves, general evidence of his literary ſituation, and figure, is legal. To what concluſion?---To this, and this alone---that he had a large number of books. But mark the fallacy of the argument, as they put it here:---They firſt would avail themſelves of your candour, in giving them *credit* for a

general

general maſs in articles of this kind. For what purpoſe?—To ingraft upon it *particular* credit for individual, and ſpecific items, in which they fail, but in which, from the *nature* of them, they *could* have brought proof, becauſe in ſimilar articles it has actually been adduced by themſelves.

It is laughable, to ſee in what a different way the evidence of the different witneſſes is framed.

One of them ſaid, "I looked at the face of his Li-
" brary, and according to the general dimenſion of the
" ſhelves, according to the ſquare feet of that which
" contained the Library, I ſhould *conceive* he *might*
" have as many books as theſe, or he *might not*;
" but in all probability he had, and had many
" more—*perhaps*."

As to the Laboratory, Mr. Hawkes, intelligent in the ſcience, is a moſt admirable witneſs to give the *value* of articles proved, but a very bad one to aſcertain whether, in fact, they did or did not *exiſt*.—What ſays he? "That he was fond of theſe
" chemical ſtudies—that he knew Dr. *Prieſtley*—
" that he *thinks*, he *muſt* have had *ſo many* articles of
" this nature;" and, after a little explanation, he added,
" *might* have had *ſo many*;" but ſtill upon groſs amount,

 without

without ſtating the actual quality of the goods ;— and ſtill preſuming even the *exiſtence* of the articles upon theſe general ſuppoſitions.

Yet ſuch trumpery has been ſtated by the Counſel to the Judge, in order to give it more ſanction, and it has been ſaid, that even in this caſe, general evidence for the purpoſe of obtaining a verdict upon particular items, is a fair meaſure of damages.— I deny it—and you ſhall determine between us. Here you ſee, that after every effort had been made, without ſucceſs, to identify, they are driven to this at laſt—" We have proved ſome, and " failed in others ; *ergo*, it is nothing but a key to " the eſtimates in general, founded upon the ſuppo- " ſition, that ſuch and ſuch books, becauſe he is an " ingenious and learned man in this and that ſcience, " muſt have exiſted, and that having exiſted, they " muſt have had ſuch and ſuch values."

It has been incomparably well aſked by a gentleman, who ſat near me, and it would be ſuperfluous to attempt any improvement of the ridicule which he impoſed upon it, even by the way of ſtating his queſtions. " What credit can be given to an eſti- " mate, when (as if inſulting thoſe whom he intends " to deceive) a perſon tells you, that we are to pay " *for ſuch and ſuch things—et cætera, et cætera,* " *et cætera*—What is *et cætera ?* How can we talk " of

" of it ? how can we reaſon upon it ?" But as if he thought it not ridiculous enough, the next item is, " *Chemical liquors, of which no account can be given---* " *and therefore twenty pounds.*" When this comes to be explained, the ridicule is accumulated, with artifice into the bargain, for it amounts to this principle, that if no account of a thing is to be given upon evidence, *he* is to give the account of it—in his own cauſe ; for the witneſs told us, that he himſelf ſeeing that item, as pointing at articles of which no account can be given, takes the account from Dr. Prieſtley ; and then Dr. Prieſtley tells him, *I infer twenty pounds.* The witneſs then comes and ſtates it as " *twenty pounds.*"

Wherever there is artifice of ſo paltry a kind as this, ridicule muſt be employed in the detection of it. But *ex pede Herculem !* for we have more of him in the ſequel---driven firſt out of their attempt at *ſpecific items* into the *lump*---driven back out of *general evidence* by the Judge, into the forlorn hope of *ſpecific items.* One of the Counſel tells you, " He *ſuppoſes* that of this chemical liquor, with ano- " nymous contents, the *bottles* have their value, " and the bottles are thrown in." And then he deſires you to believe " the Doctor" (as if he was rather ſhy in ſwelling an account) " has charged a " *little* ſum for this liquor, *bottles included*---the

" bottles alone would be worth more; and the " Doctor has been very generous to the Hundred."

Another perſon has been examined, whoſe name is Johnſon, and who, like all the reſt, gave a fair account. What ſays Mr. Johnſon, a very ingenious chemiſt, and a competent judge of the ſubject? He ſays, " Dr. Prieſtley in general had a good " Laboratory." I ſhould have ſaid the ſame thing; but he ſays, " he cannot remember the particulars, " except as to ſome of the items, which have " been marked with his name." As to the books, I think he ſaid, that " he never ſaw the con- " tents of them, but can ſpeak of them only upon " the general face of them." What evidence have you that Prieſtley *had theſe* books? Why, you have a Catalogue of Books, which he, and he alone, repreſents to have been a Catalogue of the Books in his cuſtody. How comes that Catalogue of Books to be in evidence? It has a ſanction put upon it by his two ſons, in a certain degree. But it comes out from one of them, that all the account he received of the books, which *you* are called upon your oaths to value, came from his father.

I will ſuppoſe his father to be veracity itſelf—is it poſſible, and will the learned Judge allow the poſſibility of it in your minds, that upon an account

count ſo given by a party intereſted, you ſhould go one ſtep further than if Dr. Prieſtley had been here in Court himſelf, and had ſtated that all theſe articles exiſted. If he had, I ſhould have ſaid this to him: "Dr. Prieſtley! I have the higheſt opi-" nion of you, I will give the argument all its force " in your favour. A man would be a fiend that " would utter ſolemnly in a Court, that ſuch and " ſuch things exiſted, if they did not;---but the " Court muſt not hear you with its *judicial* ears, " your evidence is rejected, and whatever *perſonal* " faith we may repoſe upon the account ſo deliver-" ed, it can here be of no avail."

It was a mere ſlip in the young man; but it ſhews what mechaniſm has been uſed in the fabrication of this particular ſuit. It was not an early period of the evidence, at which the fact was underſtood, that his account had been given by his father; for he at firſt undertakes to depoſe it, *as if he knew it*; ſo that without cloſer enquiry, *you* would have believed, as well as myſelf, that he ſwore to the fact upon his ocular evidence and perſonal memory. Explained, it vaniſhes to nothing, becauſe it is an attempt, through the ſon, to depoſe at ſecond hand from the father, a fact, *not upon oath*, which

which the father could not have ſtated even *upon oath* in a Court of Juſtice.

The laſt witneſs, Mr. Payne, the Bookſeller, is of all gentlemen that ever I ſaw in a Court of Juſtice, the moſt pleaſant. I really wiſh, for the comfort of juſtice, and for ſome enlivening flowers in the wilderneſs of eſtimates, dull and barren as theſe, that every now and then ſuch a man as Thomas Payne, the Bookſeller, ſhould be danced up like a figure upon a dulcimer. I never heard a man of ſuch pleaſant vivacity, though I don't think his reaſoning quite ſo accurate as that of Euclid. He was conſulted, however, by Dr. Prieſtley, in what manner this *battle of the books* could beſt be fought. He has a good natured manner of chatting with all of us, even with me, *his* adverſary (for he evidently conſiders me in that light) in defence of all his propoſitions. He has given an approved receipt for every thing, and you ſhall hear how this merry philoſopher deals with us.

" I am in perfectly good humour ; (ſays he) but " mind me ! Here is Dr. Prieſtley ! I know him " well ! He is a very learned and a very excellent " man ! He has loſt 460 volumes.—Agreed !—

" Now

" Now you ſhall ſee how a Bookſeller ſets a value " upon things that are loſt and gone. Its the eaſieſt " thing in the world ; I have got a few ſaved from " the wreck ; I peep a little at thoſe with a Book- " ſeller's eye, and I judge of all that are loſt ; *five* " *or ſix* that are *ſaved*, are enough to determine the " value of *all* that are *loſt*. For example, if ten " books that are ſaved, are worth ten pounds, I " count one, two, three pound, ſo on, and according " to the number of books that are gone, at one " pound a book, the value of the loſs will be as " clear as the ſun. This mode is very common— " it ſounds rather whimſical, but we Bookſellers " are very fond of it."

Let us peep a little under this Bookſeller's logic, and ſee what right the owner of the book has to the advantage of it here. It was aſked—" Pray " did you know that Prieſtley *had* theſe books ?"— " No, it is a *Catalogue*, that is enough to ſatisfy me." He does not therefore know that he *had* them ;— nor if he *had* them, does he know that he *loſt* them ;—nor does he know their quality, if they exiſted, and were loſt. Yet he ſeems quite aſtoniſhed that Lord Chief Baron Eyre (of whom perhaps he has heard that he is tolerably acute) is " not " able to ſee the force of his reaſoning." With infinite good humour, he makes a horſe-laugh, by turning the

the tables upon us, and queſtions *us*. I agree that his queſtion is, in its way, a ſolution of the difficulty; but a ſolution of it, for which the Defendants had rather pay, by commending it, than by damages. "*How can it be done better?*" I agree that its the *ne plus ultra* of the Bookſellers; but is *that*, a reaſon for making Dr. Prieſtley the witneſs in his own cauſe? or *his* Catalogue (authenticated by no evidence that he *had* the books) indiſputable evidence of the fact? or Mr. Payne's mummery, evidence (which deſerves any thing but a good laugh, though a very good natured one) "that whatever he *loſt*, "was in value juſt like that which he *ſaved?*"

But here is a new circumſtance, and though a minute figure in the account, it is impoſſible for me to imagine a ſingle *trait* that proves more deciſively the artifice uſed by this Plaintiff, or his agents for him. One of *you*, gentlemen, throwing your eye over the bill in your hand, ſhrewdly obſerved, that upon a *ſingle* volume of Dr. Johnſon's Life, by Boſwell, two pound is made the value, though two pound is the known value of the *two books*. You naturally aſk, "How comes this to paſs?"—The way of accounting for it is very curious, between Dr. Prieſtley, and the Hundred—it is a key to this lock, invented by Mr. Payne: He ſays, "It is an odd volume, and

"it

" it would require two pounds to make the complete " ſet, *therefore* (ſays Payne) I charge the odd vo- " lume two pounds." What is the honeſt reſult of ſuch a defect, but that, in fact, this was an odd volume which Dr. Prieſtley had, which odd volume is loſt, and is alone to be valued, as the meaſure of the loſs, between him and the Defendants.

How is this to be ſhaken off; I mean, when imputed as artifice? By another artifice:— " O! *this* cannot be juſtified; but this is not in the " eſtimate, *now relied upon.*"—What eſtimate?— Have there been two or three ſucceſſively? and are theſe various editions of eſtimate, any *help* to the general credit of this Plaintiff, and his cauſe?—The charge was in a book which a Juror had in his hand, who pointed out the obſervation; and I preſume that an eſtimate put by this Plaintiff, through his agents, into the hand of the Juror, was not put there, for any purpoſe, but that of giving him information.

Gentlemen, I have troubled you ſo much at length upon *general principles* in this cauſe, and upon the ſeveral topics neceſſary to the *detail* of it, that I ſhall ſay no more upon either. All that I have to add, is my wiſh, for the public, as well as

for theſe Defendants, that as far as it can be ſafely, temperately, and *legally* done, *ſome* diſtinction may be formed, as to *this Plaintiff* in particular, which may ſet a mark upon thoſe principles which he has diſperſed, and concerning which I make no ſcruple to ſay, that I believe they are *in great meaſure* the cauſe of that popular frenzy at Birmingham, which gave birth to injuries, no leſs cruel in their malignity againſt the individual, than atrocious in their violation of public order, and their diſgrace of the national character.

FINIS.

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